

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-AE-06-0040
COMMAND SERVICES, INCORPORATED	*	
	*	Enforcement Tracking No.
AI # 39633	*	AE-P-06-0038
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	Docket No. 2006-3334-EQ
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Command Services, Incorporated ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who operates an industrial sandblasting and painting facility at 4176 Louisiana Highway 30 in St. Gabriel, Iberville Parish, Louisiana ("the Facility").

II

On June 13, 2006, the Department issued a Penalty Assessment, Enforcement No. AE-P-06-0038, in the amount of \$16,896.92 to Respondent, which was based upon the following findings of fact:

The Respondent owns and/or operates an industrial sandblasting and painting facility at 4176 Louisiana Highway 30 in St. Gabriel, Iberville Parish, Louisiana. Based on the operations

of the Respondent, the facility emits or has the potential to emit air contaminants. However, the Respondent does not currently operate under an air permit.

On or about November 19, 2003, an inspection of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. On or about August 16, 2004, the Respondent was issued Compliance Order, Enforcement Tracking No. AE-C-03-0426, for failing to take all responsible precautions to prevent particulate matter from becoming airborne. The Order required the Respondent to immediately take any and all steps necessary to achieve and maintain compliance with the Act and the Air Quality Regulations including, but not limited to, LAC 33:III.1305. The Respondent was also required to submit an inventory of the potential to emit of each emission source at the facility. The Order was served on the Respondent on or about August 18, 2004. Compliance Order, Enforcement Tracking No. AE-C-03-0426 is a final action of the Department and not subject to further review. On or about October 14, 2004, the Department received from the Respondent an air permit application dated September 20, 2004, which satisfied the second portion of the Order.

On or about February 16, 2005, a file review of the Respondent's facility was performed to determine the degree of the compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violation was noted during the course of the file review:

Based upon review of the Respondent's air permit application dated September 20, 2004, and received by the Department on or about October 14, 2004, the Respondent does not meet the criteria for exception from Chapter 5 of the Air Quality Regulations. Therefore, the

Respondent has been operating the facility without a permit. This is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On or about December 1, 2004, and February 10, 2005, inspections of the Respondent's facility were performed to determine the degree of compliance with the Act and the Air Quality Regulations in response to citizens' complaints regarding paint overspray from the facility.

The following violations were noted during the course of the inspections:

The Respondent failed to take all reasonable precautions to prevent particulate matter from becoming airborne. At the time of the inspections, the Respondent did not have any form of containment in place. Each incident is a violation of Compliance Order, Enforcement Tracking No. AE-C-03-0426, LAC 33:III.1305, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On April 5, 2005, a Notice of Potential Penalty (NOPP), Enforcement Tracking No. AE-PP-04-0342, was issued to the Respondent.

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THIRTEEN THOUSAND AND NO/100 DOLLARS (\$13,000.00) of which Six Hundred Four and 92/100 Dollars (\$604.92) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to

DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Iberville Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

COMMAND SERVICES, INCORPORATED

BY: [Signature]
(Signature)

J. Kenneth Freeman
(Printed)

TITLE: Secretary/Treasurer

THUS DONE AND SIGNED in duplicate original before me this 13th day of
DECEMBER, 20 06, at Baton Rouge, LA.

[Signature]
NOTARY PUBLIC (ID #09490)
John Conway Miller
(Printed)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Mike D. McDaniel, Ph.D., Secretary

BY: [Signature]
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 3rd day of
May, 20 07, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20456)
T. L. Draper, Jr.
(Printed)

Approved: [Signature]
Harold Leggett, Ph.D., Assistant Secretary